

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1645 of 1984

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

DHANUBHA CHANUBHA JADEJA

Versus

V K GUPTA OR HIS SUCCESSOR, DSP, JAMNAGAR

Appearance:

MR SR BRAHMBHATT for Petitioners

MR SR DIVETIA for Respondents

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 19/09/97

ORAL JUDGMENT

#. Heard learned counsel for the parties.

#. The facts are not in dispute that the petitioners were selected on the post of unarmed constable by respondent No.1. They were also given appointments and sent for training but after five days of commencement of training, they were asked to go back. Hence this Special

Civil Application by petitioners before this Court.

#. The grievance of the petitioners is that their termination of services as constables was ordered on the ground that on the day on which they were given appointment and sent for training, they were over-aged. Age should have been counted, as contended by learned counsel for petitioners, for the purpose of age-eligibility, on the day on which interviews took place. The petitioners were within the prescribed age limit on the day on which the interviews for their selection took place.

#. The learned counsel for the respondents does not dispute the fact that the age eligibility has to be taken on the day on which the petitioners were interviewed. However, the learned counsel for the respondents submitted that it is a matter of fact to be established by documents of the date of birth of the petitioners and as such he is not able to say what exact age of the petitioners was, on the date of interviews.

#. Though in view of the fact that the respondents have not filed any reply to this Special Civil Application, whatever averments made by petitioners in Special Civil Application stand uncontroverted, but in view of the fact that the petitioners are working for all these years under the Court's order, I consider it to be appropriate that the respondent No.1 may now examine this question only and in case all the petitioners are found to be within the prescribed age limit on the date of interview, then there remains no dispute that their termination of services was wholly arbitrary and illegal. The only question which remains to be now taken note of is how the interregnum period, i.e. the date of termination till the date of interim relief granted by this Court, pursuant whereof the petitioners were taken back in service, has to be dealt with. The learned counsel for the petitioners very fairly submitted on instructions from petitioners that they may not be given salary for that period, but that period may be counted for all purposes, i.e. for seniority, grade increment, length of service and qualifying service, etc. at the time of retirement. The petitioners have thus acted very fairly and as such, it is hereby ordered that in case the decision of respondent No.1 regarding the age eligibility of the petitioners on the date of interview goes in their favour, then in that eventuality though they may not be given any salary for the interregnum period as aforesaid but that period should be counted for seniority and all other service benefits.

#. In the result, this Special Civil Application and Rule stand disposed of in aforesaid terms with no order as to costs. Till the aforesaid exercise is undertaken by respondent No.1, the interim relief granted shall continue and in case the petitioners or any of the petitioner are/is not found to be within the age limit on the date of interview, the stay order shall continue, in that case, for further one month. No order as to costs.

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(sunil)